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MEMORANDUM

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2015 FEB 10 P 3:20

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities DivisionAZ CORP COMMISSION
DOCKET CONTROL

DATE: February 10, 2015

RE: IN THE MATTER OF THE APPLICATION OF LIGHTYEAR NETWORK
SOLUTIONS, LLC FOR APPROVAL TO CANCEL ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY
(DOCKET NOS. T-04229A-14-0092 AND T-03864A-14-0092)

Attached is the Staff Report for the above referenced application. The Applicant is applying for approval to cancel its Certificate of Convenience and Necessity ("CC&N") to provide the following services:

- Resold Long Distance Services

Staff recommends cancellation of the CC&N.

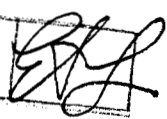
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Originator: Matt Connolly

ORIGINAL

Arizona Corporation Commission
DOCKETED

FEB 10 2015

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SERVICE LIST FOR: LIGHTYEAR NETWORK SOLUTIONS, LLC
DOCKET NOS.: T-04229A-14-0092 AND T-03864A-14-0092

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Arizona Corporation Commission
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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

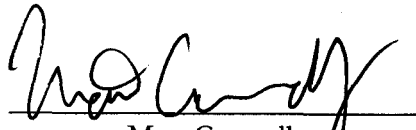
LIGHTYEAR NETWORK SOLUTIONS, LLC
DOCKET NOS. T-04229A-14-0092 AND T-03864A-14-0092

IN THE MATTER OF THE APPLICATION OF
LIGHTYEAR NETWORK SOLUTIONS, LLC FOR APPROVAL TO CANCEL ITS
CERTIFICATE OF CONVENIENCE AND NECESSITY

FEBRUARY 10, 2015

STAFF ACKNOWLEDGEMENT

The Staff Report for Lightyear Network Solutions, LLC, Docket Nos. T-04229A-14-0092 and T-03864A-14-0092, was the responsibility of the Staff member listed below. Matt Connolly was responsible for the review and analysis of Lightyear Network Solutions, LLC's Application to cancel its Certificate of Convenience and Necessity.



Matt Connolly
Executive Consultant II

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INTRODUCTION

On March 18, 2014, Lightyear Network Solutions, LLC (“LNS” or “Applicant” or “Lightyear”) submitted an Application to cancel its resold long distance Certificate of Convenience and Necessity (“CC&N”).

BACKGROUND

On December 3, 2004, the Arizona Corporation Commission (“Commission”), in Decision No. 67435, granted LNS a CC&N to provide competitive facilities-based and resold local exchange and interexchange services within the State of Arizona. The same Decision ordered LNS to procure, and docket proof of, a \$235,000 performance bond. On December 5, 2006, the Commission, in Decision No. 69171, cancelled the facilities-based long distance portion of LNS’s CC&N and reduced LNS’s performance bond requirement to \$135,000. On May 16, 2008, the Commission, in Decision No. 70342, cancelled the facilities-based and resold local exchange portions of LNS’s CC&N as well as the \$135,000 performance bond required in Decision No. 69171. Currently, LNS is only authorized to provide resold long distance service.

STAFF’S ANALYSIS

In its March 18, 2014, Application, LNS indicates that the Commission was notified on February 23, 2014, by letter, of the transfer of LNS’s assets and customers to Ionex Communications North, Inc. d/b/a Birch Communications Inc. (“Birch”).¹ LNS states that, as a result of this asset transfer, LNS has no remaining assets and all operations have ceased; therefore, it requests immediate cancellation of its remaining resold long distance authority and its tariff.

Staff was informed by LNS’s Custodian of Records that LNS was sold on September 7, 2013, to Birch and dissolved in December of 2013. Staff was also informed by the LNS point of contact for this matter that it was no longer authorized to perform any work on behalf of LNS and LNS as a legal entity no longer exists. Rather, Staff was encouraged to rely on the information regarding LNS provided in the Application to transfer customers from LNS to Birch, Docket No. T-04229A-14-0073.

In Docket No. T-04229A-14-0073, Birch filed a letter to advise the Commission of the transfer of customers from LNS to Birch. Pursuant to Arizona Revised Statute (“A.R.S.”) 40-285 (F), a transfer of assets does not require Commission approval for companies whose services have been classified as competitive, as was LNS’s. On April 22, 2014, in the same Docket, Birch filed a request for, among other things, a waiver of Arizona Administrative Code (“A.A.C.”) R14-2-1904 et seq. (the “Slamming Rules”). Pursuant to the Discontinuance of Service Rules of A.A.C. R14-2-1107 (A)(2), a telecommunications company providing competitive service is required to verify that all affected customers have been notified of the proposed service discontinuance or abandonment.

¹ See *IN THE MATTER OF THE APPLICATION OF IONEX COMMUNICATIONS NORTH, INC. D/B/A BIRCH COMMUNICATIONS FOR APPROVAL OF THE TRANSFER OF CUSTOMERS FROM LIGHTYEAR NETWORK SOLUTIONS, LLC., ERNEST COMMUNICATIONS, INC. AND COVISTA, INC.*, Docket Nos. T-03864A-14-0073, T-04229A-14-0073, T03631A-14-0073 and T-03490A-14-0073. .

On October 23, 2013, approximately 443 LNS customers were notified of the acquisition LNS's local and long distance telephone customers by Birch in accordance with the Federal Communications Commission's Customer notification rule – 47 C.F.R. § 64.1120(e). Because LNS's customers were provided notice of the carrier change in compliance with federal rules, Staff recommended and, in Decision No. 74778, the Commission approved Birch's request for a waiver of the Slamming Rules for the transfer of customers from LNS to Birch.

Pursuant to A.A.C. R14-2-1107(B), legal notice of an Application to discontinue or abandon local exchange or interexchange services is to be published in all counties affected by the Application. LNS did not publish such notice.

In Decision No. 70342 (dated May 16, 2008), the Commission cancelled LNS's authority to provide competitive resold and facilities-based local exchange telecommunications, Ordered that LNS's authority to provide resold long distance service remain in effect and Ordered LNS to maintain its irrevocable sight draft letter of credit ("ISDLOC") in the amount of \$10,000, until further order of the Commission. Staff has confirmed that the Commission's Business Office is in possession of this ISDLOC. LNS indicated to Staff that upon approval of the cancellation of LNS's CC&N, the ISDLOC should be returned to:

Mr. Steve Lochmueller
Custodian of Records
Lightyear Network Solutions, LLC
P. O. Box 22889
Lexington, KY 40522

The Compliance Section of the Utilities Division reports no delinquencies for LNS. The Consumer Services Section of the Utilities Division reports that there were no complaints, inquiries, or opinions filed against LNS from January 1, 2011, through March 31, 2014. On March 3, 2014, LNS canceled its registration to transact business as a Foreign Corporation in the State of Arizona.²

RECOMMENDATIONS

Given that LNS no longer provides telecommunications services in Arizona, Staff recommends approval of LNS's Application to cancel its CC&N to provide competitive resold long distance telecommunications services in Arizona. Staff further recommends that upon cancellation of the CC&N, the ISDLOC in the amount of \$10,000 be returned to the contact above. Finally, Staff recommends the cancellation of LNS's tariff on file with the Commission.

Upon cancellation of its CC&N, LNS will no longer be authorized to provide competitive resold interexchange telecommunications services in Arizona and therefore, will no longer be subject to the requirements of Decision No. 67435.

² Certificate of Cancellation of Foreign LLC Registration filed with the Corporations Division on March 3, 2014.